REMARKS

Status of the Claims

Claims 1-17, 33, and 34 are now pending. Non-elected claims 18-32 were previously canceled without prejudice or disclaimer. Independent claims 1 and 33 and dependent claims 2-4, 8, 9, 11-14, and 34 have been amended to improve clarity without the introduction of any new matter.

Reconsideration of this application, as amended, is respectfully requested.

Priority under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Rejections under 35 U.S.C. § 103

A. Claims 1, 3-7, and 15

Claims 1, 3-7, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abileah et al. (U.S. Patent Application Publication No. 2002/0038336, hereinafter "Abileah") in view of Sakanishi (U.S. Patent No. 6,678,888), further in view of Tuatini (U.S. Patent Application Publication No. 2001/0047385). This rejection is respectfully traversed.

The outstanding Action suggests that paragraph [0063] (lines 1-7) of Abileah discloses a "connector obtaining unit **responsive to the application management unit determination of the connector** so as to provide access to the connector" (emphasis added) in terms of disclosing "providing solutions to IMS and CICS transaction programs and sec [0077], which discloses connection **creation** for a connector that is required to match interface requirements between an adapter and an application" (emphasis added). However this "**creation**" required "to match interface requirements between an adapter and an application" is not reasonably equitable to the claim 1 required accessing the connector "**responsive to the application management unit determination of the connector.**" The deficiency of Abileah in this regard is now emphasized by the amended language of claim 1 requiring "a connector obtaining unit **responsive to the application management unit determination of the existing connector** so as **to provide access to the existing connector determined by the application management unit.**"

The outstanding Action suggests that paragraph [0063] (at lines 1-7) of Abileah discloses a "connector obtaining unit **responsive to the application management unit determination of the connector** so as **to provide access to the connector**" (emphasis added) in terms of disclosing "providing solutions to IMS (Information Management System) and CICS (Customer Information Control System) transaction programs and sec [0077], which discloses **creation** for a connector that is required to match interface requirements between an adapter and an application" (emphasis added).

However, Abileah defines the IMS in paragraph [0056] to be a "system from IBM that, together with IBM's Enterprise Systems Architecture (IMS/ESA) provides a transaction manager and a hierarchical database server," that cannot be **reasonably** interpreted to be the claimed "connector obtaining unit" or the claimed "application management unit."

Similarly, Abileah defines the CICS (Customer Information Control System) in paragraph [0055] to be "the online transaction processing program from IBM that, together with the Common Business Oriented Language programming language, is a set of tools for building customer transaction applications in the world of large enterprise mainframe." Once again, this cannot be **reasonably** interpreted to be the claimed "connector obtaining unit" or the claimed "application management unit."

Furthermore to whatever extent that the actual teaching of paragraph [0063] is that "[b]y parsing each source file and generating XML documents based on the CAM model, COBOL copybook, PL/I copybook, MFS Source, BMS Source, etc., tools can provide connector solutions to IMS, and CICS, etc.", this is not a teaching of how and by what the "suggested connector solutions" are provided to the IMS and CICS.

Further in this regard, nothing in paragraph [0077] teaches accessing any particular connectors and it certainly does not teach the claim 1 recited analyzing of "application data to determine an **existing connector** that specifies information indicating a function required for executing said application" (emphasis added) or the claim 1 required "connector obtaining unit responsive to the application management unit determination of the **existing connector** so as to provide **access to the existing connector** determined by the application management unit" (emphasis added).

It is well established that that "ordinary, simple English words whose meaning is clear

and unquestionable," absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say. *See Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857, 1859 (Fed. Cir. 2004). It is clear that "existing" means "to have being or actuality" as noted in the Second College Edition of the American Heritage Dictionary, for example. Clearly, a connector that must be created cannot be interpreted to be an "existing connector." The teachings of Abileah as to the **creation** of a connector using standard metamodels have nothing to do with **accessing existing connectors**. See paragraph [0077] as follows:

> [0077] A connector is required to match the interface requirements of the adapter and the legacy application. It is also required to map between the two interfaces. Standardized metamodels for application interfaces presented herein allow reuse of information in multiple connector tools. These standardized metamodels not only reduce work to create a connector, but also reduce work needed to develop connector builder tools.

Instead of addressing the actual teachings of Abileah as to the creation of connectors using standard metamodels in their full context, the outstanding Action attempts to surgically remove the isolated teaching of a connector out of the reference context that any needed connector must be created using the standard metamodels as building blocks and to then modify these creation teachings into abstract principles of accessing an existing connector with no actual **reasonable** basis in Abileah. In this last respect, *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) establishes that:

> While the test for establishing an implicit teaching, motivation, or suggestion is what the combination of [reference statements] would have suggested to those of ordinary skill in the art, the [reference] statements cannot be viewed in the abstract. Rather, they must be considered in the context of the teaching of the entire reference. (emphasis added).

A careful and full consideration of Abileah makes it clear that this reference does not teach or even remotely suggest any **analysis of application data** to determine "**an existing connector that specifies information indicating a function required for executing said application**" or the claimed "connector obtaining unit **responsive to the application management unit determination of the existing connector so as to provide access to the existing connector determined by the application management unit**" (emphasis added).

To whatever extent that Sakanishi is relied upon to teach the missing "application managing unit" it is again noted that the amended independent claim 1 "application managing unit" must analyze "**application data to determine an existing connector that specifies information indicating a function required for executing said application**" and **not** to simply analyze "application data to determine information indicating a function required for executing said application" as stated at page 3, lines 6-10 of the outstanding Action as to col. 8, lines 53-61. Further in this regard, to whatever extent that that col. 8, lines 53-61 of Sakanishi teaches analyzing a "software information file" for each software distribution to determine premise software "or a premise-software management table" that can be used to determine what "other software is required for distribution of specific software," these teachings have everything to do with software distribution and absolutely nothing to do with determining an "**existing connector**" as claimed. Thus, it is clear that the outstanding Action does nothing but attempt a piecemeal reconstruction of bits and pieces from Abileah and Sakanishi that are taken out of context and force fitted together in light of Applicant's teachings and not in light of anything reasonably taught by the references.

As was noted in the last response as to the deficiencies of Sakanishi, and as yet unanswered by the Examiner in violation of MPEP 707.07(f),

> In any event, the teachings relied upon from Sakanishi to teach the claim 1 "management unit" have absolutely nothing to do with the claim 1 "managing unit" because the claim 1 "managing unit must analyze "application data to determine **a connector that specifies information indicating a function required for executing said application**" (emphasis added), not something that will analyze a software file "to determine premise software of the distributed software, or a premise-software management table" as taught by Sakanishi.

> In addition, the outstanding action lacks any explanation as to how the Sakanishi teaching of analyzing a software file "to determine premise software of the distributed software, or a premise-software management table" would have been used to modify the Abileah paragraph [0077] "**creation** for a connector that is required to match interface requirements between an adapter and an application." This is a clear violation of MPEP §706.02(j) that requires the examiner to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support a rejection under 35 U.S.C. 103(a). In addition, the requirement of the Supreme Court that "there must be some **articulated reasoning** with some **rational underpinning** to support the legal conclusion of obviousness" (emphasis added, *see KSR Int'l v.*

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Teleflex Inc., 127 S.Ct. 1727, 82 USPQ.2d 1385, 1396 (2007) quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) has also been ignored.

Here the proposed modification is identified only as a vague incorporation of the "general concept illustrated by Sakanishi, in order to successfully access a function for application execution" that has nothing to do with the claim 1 "application managing unit **that analyzes application data to determine a connector that specifies information indicating a function required for executing said application**" (emphasis added) at page 3, lines 16-17 of the outstanding Action. Similarly, the noted "motivation of providing the benefit of issuing transaction data based on required application specifics" (noted at page 3, lines 17-18 of the outstanding Action) has nothing to do with the claim 1 "application managing unit **that analyzes application data to determine a connector that specifies information indicating a function required for executing said application**" (emphasis added).

Furthermore, the allegations at lines 15-18 of page 3 of the outstanding Action ignore the claim 1 requirement that the "connector obtaining unit" must be "responsive to the application management unit determination of the connector so as to obtain the connector" as well as apparently improperly equating the term "obtain" to the actual creation of a connector based on the Abileah paragraph [0077] disclosed "standardized metamodels." To make the difference even clearer, claim 1 has been amended to require that the "connector obtaining unit responsive to the application management unit determination of the connector" must "provide access to the connector."

In addition, it is clear that the outstanding Action has improperly relied on Sakanishi in terms of extracting specific teachings out of the Sakanishi context and then improperly turning these specific teachings into expanded abstract concepts that are not actually taught by Sakanishi there from that are then expanded teachings from each of these references. This approach clearly violates precedent. *See In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("[reference] statements cannot be viewed in the abstract" because "they must be considered in the context of the teaching of the entire reference.").

Furthermore, this erroneous taking of Sakanishi teachings out of context and improperly expanding them into an unexplained "general concept illustrated by Sakanishi" (see page 3, line 16 of the outstanding Action) is a violation of precedent as it involves the prohibited use of unfounded assumptions and/or speculation as a substitute for actual reference teachings. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) ("The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not ... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.").

In the final analysis, the outstanding Action does nothing but suggest a "piecemeal reconstruction" of unrelated reference disclosures that are improperly broadened into "concepts" based upon applicants' disclosure instead of any actual prior art teaching that violates precedent. *See In re Rothermel*, 276 F.2d 393, 396, 125 USPQ 328, 331 (1960), for example. Moreover, even this "piecemeal reconstruction" augmented by the noted improper expansion of actual reference teachings into concepts falls short of establishing a prima *facie case* of obviousness as the amended claim 1 requirement for a "connector obtaining unit responsive to the application management unit determination of the connector so as to provide access to the connector" has not been shown to be taught or suggested.

Instead of answering these specific arguments as to the deficiencies of Sakanishi, page 16 of the outstanding Action argues that "[t]he analyzed software information that is displayed an order to determine which software is required for distribution of specific software (taught in col. 8 of Sakanishi, lines 53-61) is **equivalent** to the application analysis taught within the instant application because Sakanishi provides control for determining necessary software and a software distribution command and software components required for eventual use and execution of the distributed software (col. 5 of Sakanishi, lines 16-31)" (emphasis added). What is missing from this statement is the required showing of where Sakanishi (or any other relied upon reference) teaches that the different language of col. 8, lines 53-61 (as to a software information file being analyzed to determine premise software of the distributed software which is then used to provide a premise-software management table to allow premise software to be controlled by using the premise-software management table) and the language of claim 1 requiring "an application managing unit that analyzes application data to determine an existing connector that specifies information indicating a function required for executing said application" means the same thing. Under the above-noted controlling precedent of *In re Kotzab* (at 217 F.3d 1371, at 55 USPQ2d 1317) there must be relevant evidence as a reasonable mind might accept as adequate to support the conclusion that such seemingly different reference language and claim language means the same thing.

Page 17, lines 13-15, of the outstanding Action illustrate further that the proposed combination of Abileah and Sakanishi has nothing to do with the subject matter of independent claim 1. In this respect, it is clear that the claimed subject matter has nothing to do with the proposed "update [of] the Transaction meta-model of Abileah et al with the software distribution

method of Sakanishi" or with the suggested need to "specify appropriate software to provide when managing application requests."

Turning to Tuatini, it is first noted that the outstanding Action at times refers to this reference as "Tuitani" instead of "Tuatini" (see page 10, line 8, of the outstanding Action, for example) the correct name. This incorrect indication (Tuitani) is being considered to be a typographical error and all indications of "Tuitani" are being considered to be intended to be indications of Tuatini.

Turning to the express reliance on Tuatini in the outstanding Action, page 3 thereof admits that Abileah and Sakanishi "fail to teach a function utilizing unit accessing a location of said function based on access information relating to the location described in information contained by said connector, and utilizing said function specified by said connector." In light of the amendment to claim 1, the admission is now actually that Abileah and Sakanishi "fail to teach a function utilizing unit accessing a location of said function based on access information relating to the location described in information contained by said existing connector, and utilizing said function specified by said existing connector."

Rather than explain how Tuatini teaches this specifically recited subject matter, the outstanding Action once again notes teachings that are only peripherally related in terms of "locating stored access interface information based on service and function name, fig. 45, and see sec [065], lines 7-11, which discloses executing an accessible function of the service." Nowhere is it explained how the requirement that the claimed "accessing a location of said function **based on access information relating to the location described in information contained by said existing connector**, is taught by the referenced Tuatini disclosure. Instead the referenced Tuatini disclosure is simply taken out of context and once again improperly twisted into a "general concept" that is itself never explained, all in violation of the above noted precedent prohibiting such improper revisions of actual reference teachings.

In any event, the requirement of claim 1 as to the claimed "function utilizing unit" is clear in terms of this unit "accessing a location of said function based on access information relating to the location **described in information contained by said existing connector**." To whatever extent that Tuatini teaches "actively locating required application components and connectors" as asserted at page 4, line 5, of the outstanding Action, this is not the claimed subject

matter.

In addition, it is again noted that MPEP §706.02(j) requires that the examiner is to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support these rejections under 35 U.S.C. 103(a). This has not been done. The above-noted requirements of the previously cited *KSR Int'l v. Teleflex Inc.* as to "articulated reasoning" having "some rational underpinning to support the legal conclusion of obviousness" have also been ignored.

Accordingly, reconsideration and withdrawal of the improper rejection of independent claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Abileah in view of Sakanishi and further in view of Tuatini are respectfully requested.

Furthermore, as claims 3-7, and 15 depend directly or indirectly from independent parent claim 1 they are respectfully submitted to be improperly rejected under 35 U.S.C. § 103(a) as unpatentable over unpatentable over Abileah in view of Sakanishi and further in view of Tuatini for at least the same reason as noted above as to parent independent claim 1.

Accordingly, reconsideration and withdrawal of this improper rejection of dependent claims 3-7 and 15 under 35 U.S.C. § 103(a) are also respectfully requested.

B. Claims 2, 8, 9-14, 16, and 17

The outstanding Action sets forth rejections of claims 2, 8, 9-14, 16, and 17, all of which depend directly or indirectly from claim 1, as follows:

a rejection of dependent claim 2 under U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Sharma et al. (U.S. Patent No. 6,976,061, hereinafter "Sharma");

a rejection of dependent claims 8, 13, and 14 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Schiller et al. (U.S. Patent Application Publication No. 2002/0007491, hereinafter "Schiller");

a rejection of dependent claim 9 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Trimberger et al. (U.S. Patent No. 7,269,724, hereinafter "Trimberger");

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a rejection of dependent claim 10 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Jarvensivu (U.S. Patent Application Publication No. 2002/0188736);

a rejection of dependent claims 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Jarvensivu and Tanaka (U.S. Patent No. 5,845,069); and

a rejection of dependent claims 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Thompson (U.S. Patent No. 5,465,401).

These rejections are first of all traversed because none of the added references (Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson) cure the above noted deficiencies of Abileah in view of Sakanishi and Tuatini. Thus, dependent claims 2, 8, 9-14, 16, and 17 clearly patentably define over these applied references for at least the same reasons that claim 1 does.

Furthermore, and as noted and unanswered relative to the last response, just as Sakanishi is not analogous art that can be used in an obviousness rejection in combination with Abileah under the provisions of MPEP § 2141.01(a), neither are at least Schiller (video-on-demand), Trimberger (using a physical interface connector with pins), Tanaka (drawn to IC card management) nor Thompson (multiple purpose personal communication devices).

In addition, it is again clear that the outstanding Action has improperly relied on these references (Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson) in much the same manner as Sakanishi and Tuatini in terms of improperly extracting partial unrelated teachings from each of these references out of the reference context and then improperly expanding these extracted partial teachings into far broader abstractions referred to as a "general concept illustrated by" one or the other of Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson. Once again, this is noted to clearly violate the above-noted precedent including *In re Kotzab, supra.*

In addition to this violation, the outstanding Action also again violates the requirement of MPEP §706.02(j) that the examiner is to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support these rejections under 35 U.S.C. 103(a). The above-noted requirement of *KSR Int'l v. Teleflex Inc., supra,* for

"articulated reasoning" having "some rational underpinning to support the legal conclusion of obviousness" has again also been improperly ignored.

Accordingly, reconsideration and withdrawal of these improper rejections of dependent claims 2, 8, 9-14, 16, and 17 under 35 U.S.C. § 103(a) are also respectfully requested.

C. Claim 33

The outstanding Action sets forth a rejection of claim 33 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini. This rejection is respectfully traversed.

It is again first noted that the reliance on the teachings of Abileah and Sakanishi is in error for all the reasons noted above as to independent claim 1.

In addition, the outstanding Action adds reliance on paragraphs [0117] and [0130] of Tuatini that cure none of the above-noted deficiencies as to the reliance on Abileah in view of Sakanishi and Tuatini. In this regard, the external shared services of paragraph [0117] of Tuatini are not taught by Tuatini to be reasonably equated to the claim 33 requirement for an "external function management unit responsive to the location of the required function being determined by the connector management unit to be an external location to the service utilization terminal to provide the required function from the external location so that the required function from the external location can be utilized." Similarly, the paragraph [0115] "internal pass thru component" of Tuatini is not seen to be reasonably equated to the claim 33 requirement for "an internal function management unit responsive to the location of the required function being determined by the connector management unit to be an internal location in the service utilization terminal to provide the required function from the internal location so that the required function provided from the internal location can be utilized." See again the above-noted decision of *In re Kotzab* (at 217 F.3d 1371, and at 55 USPQ2d 1317) as to the requirement for relevant evidence as a reasonable mind might accept as adequate to support the conclusion that seemingly different language used in the claims and in the references means the same thing. There is no such relevant evidence here, just a subjective conclusion.

The outstanding Action also once again violates the above-noted precedent by suggesting a "piecemeal reconstruction" of unrelated reference disclosures that are extracted entirely out of context and then transformed into broad statements of alleged "concepts" based on applicants'

disclosure and not any reasonable reference teachings. The improper revisions of the actual teachings of the references into much broader "concepts" completely outside the limits set by the contexts of the references could not be any clearer.

As noted above, MPEP §706.02(j) requires that the examiner is to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support any rejection under 35 U.S.C. 103(a). This requirement has once again been ignored as has the above-noted *KSR Int'l v. Teleflex Inc.* requirement for "articulated reasoning" having "some rational underpinning to support the legal conclusion of obviousness."

Accordingly, reconsideration and withdrawal of this improper rejection of independent claim 33 under 35 U.S.C. § 103(a) are also respectfully requested.

D. Claim 34

The outstanding Action sets forth a rejection of claim 34 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Sakanishi and Tuatini and further in view of Mitchell et al. (U.S. Patent Application Publication No. 2004/0193731, hereinafter "Mitchell").

This rejection is first of all traversed because the added Mitchell reference cures none of the above noted deficiencies of Abileah in view of Sakanishi and Tuatini. Thus, dependent claim 34 clearly patentably defines over these applied references for at least the same reasons that parent independent claim 33 does.

The outstanding Action further errs by trying to interpret claim 34 as reciting a "connector obtaining unit [that] obtains the connector from a holding location in said different device by accessing said holding location in said different devices." However, claim 34 does not recite such a "connector obtaining unit." Instead, a "connector management unit" is recited by amended claim 34 as providing "access to the required existing connector from a holding location in a different device by accessing said holding location in said different device." To whatever extent that paragraph [0021] of Mitchell teaches a "connector interfaces **within a** multiple client platform or hosting system" (emphasis added), this is not the asserted teaching of "connector interfaces **on multiple client devices or a hosting system**" (emphasis added). Also, there is no teaching here of the required "access to the required existing connector from a holding location in a different device by accessing said holding location in said different device." The outstanding Action then turns to paragraph [0019] at lines 11-15 and alleges that this

somehow teaches the claim 34 "service utilization terminal" that must have "a connector storing unit storing said required existing connector obtained from the holding location in said different device" because it discloses that there are "connector caches for client access."

However, the above noted recitals of claim 34 require far more than "connector interfaces within a multiple client platform or hosting system" or a "PIM service" that Mitchell notes as "typically" acting to somehow "cache a portion of the PIM data within a local PIM data store," none of which is disclosed in any detail as to cache location or manner of access. Once again, a few unrelated reference disclosures are extracted out of even their limited context and then transformed into disclosures of a "general concept" allegedly relevant to the vastly different limitations of claim 34, all without even a hint of any reasonable basis for the transformations in terms of a specified reference teaching. This is yet another clear violation of precedent such as *In re Kotzab, supra.*

As further noted above, MPEP §706.02(j) requires that the examiner is to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support any rejection under 35 U.S.C. 103(a). This requirement has again been ignored as has the above-noted *KSR Int'l v. Teleflex Inc.* requirement for "articulated reasoning" having "some rational underpinning to support the legal conclusion of obviousness."

Accordingly, the withdrawal of this improper rejection of dependent claim 34 under 35 U.S.C. § 103(a) is also respectfully requested.

CONCLUSION

As all of the stated grounds of rejection have been properly traversed, it is respectfully requested that the Examiner reconsider all presently outstanding rejections and that they be withdrawn in light of these traversals.
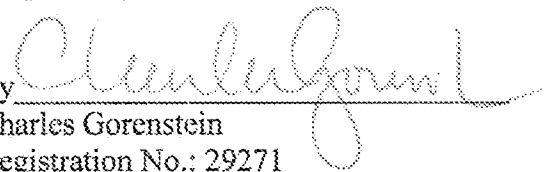
It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Registration No. 40,440 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: March 3, 2011

Respectfully submitted,

By _____

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